

Retailer Contraband Cigarette Guidance and Penalty Schedule

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The DOR is responsible for monitoring compliance with Nebraska's cigarette and tobacco laws, including diligent enforcement as required by the Master Settlement Agreement pursuant to Neb. Rev. Stat. §§ 69-2701 to 69-2711, 77-2601 to 77-2622, and 77-4001 to 77-4025. The DOR's diligent enforcement efforts include compliance checks of cigarette and tobacco retailers. This guidance identifies the standard as to what constitutes a complete readable tax stamp, provides a penalty schedule, and replaces the letter issued by DOR in July 2018.

As part of the compliance checks, the DOR inspects for contraband cigarettes. Contraband cigarettes include any:

- Cigarettes on point of sale displays or in your inventory that do not have a Nebraska cigarette tax stamp or are not properly stamped with a complete readable Nebraska tax stamp;
- Cigarettes and roll-your-own (RYO) tobacco that are not listed on the [Nebraska Directory of Certified Tobacco Product Manufacturers and Brands](#) (Directory). The Directory can be viewed on the DOR's website at revenue.nebraska.gov by clicking on "Cigarettes/Other Tobacco Products," and "Nebraska Directory of Certified Tobacco Product Manufacturers and Brands;" and
- Any cigarettes not contained in a package that bears a complete readable Nebraska tax stamp, including loose cigarettes sold individually.

A complete readable tax stamp is a stamp that can be identified as a Nebraska cigarette tax stamp, containing the legible 5-digit stamp number or two thirds (2/3) of the tax stamp. This standard does not apply if the tax stamps exhibit an intent to fraudulently evade tax. The 5-digit stamp number is legible if it can be read or recognized even where there is some flaking of the stamp on or around the 5-digit number. A complete readable tax stamp is required by [Cigarette Tax Regulation 57-006.01](#).

Contraband cigarettes discovered during retail inspections will be confiscated under [Neb. Rev. Stat. § 77-2620](#). Further, the retailer could be subject to civil and criminal penalties, and suspension or revocation of its local license to sell tobacco products.

To ensure compliance with the cigarette and tobacco products tax laws of Nebraska, every retailer that

sells cigarettes and RYO tobacco should implement as a best practice, the following steps:

- Inspect all cigarettes upon receipt to ensure that the cigarettes are properly stamped (see above) with a complete readable Nebraska cigarette tax stamp.
- Do not place any cigarettes on point of sale displays that do not contain a complete readable Nebraska tax stamp.
- Verify that all cigarettes and RYO tobacco products are listed on the Directory.
- Remove all cigarettes from point of sale displays that do not have a complete readable Nebraska cigarette tax stamp and/or are not listed on the Directory and return them to the stamping agent immediately.

The DOR encourages retailers to work with their cigarette stamping agents to avoid issues with cigarettes and RYO tobacco.

The DOR will be using the following penalty schedule for stamping violations and non-directory sales of cigarettes and RYO tobacco products. Offenders are subject to the penalties described in the penalty schedule within a three-year time frame. **Penalties will only apply to packages of cigarettes with no tax stamp, an out-of-state tax stamp, non-directory cigarettes and RYO tobacco products, tax stamps that exhibit an intent to fraudulently evade tax, or where the facts of a particular incident rise to a level warranting a penalty.**

Cigarettes Seized Due to Tax Stamp Application*		Non-directory Product*	
Stamping Agents	Retailers	Stamping Agents	Retailers
1 st Incident: \$25 per package, capped at a total of \$500	1 st Incident: \$5 per package, capped at a total of \$100	1 st Incident: \$500 penalty	1 st Incident: \$500 penalty
2 nd and Subsequent Incidents: \$50 per package, capped at a total of \$1,000	2 nd Incident: \$10 per package, capped at a total of \$250	2 nd Incident: \$1,000 penalty	2 nd Incident: \$1,000 penalty
	3 rd Incident: \$10 per package, capped at a total of \$500	3 rd Incident: \$5,000 penalty	3 rd Incident: \$1,000 penalty

***DOR** is not precluded from commencing revocation proceedings or recommending a case for criminal prosecution when the facts of any incident rise to a level warranting such action. Also, the retailer or stamping agent may attempt to resolve the penalty by filing a [Request for Abatement of Penalty, Form 21](#).

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